HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4977 of 2006

Dated:08.09.2006

Between:

K.Adilakshmi.

…Petitioner

and

The District Collector and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4977 of 2006

ORDER:

The petitioner filed the instant Writ Petition praying for the following relief.

> For all the reasons stated in the enclosed affidavit, this Honourable Court may be pleased to issue a writ or order, more particularly, one in the nature of Writ of *Mandamus* or any other writ declaring the attempted action of the respondents 1 to 4 in handing over the 50.00 cents of land in TD No.3072 Inam Patta Survey No.448 (R.S.No.5 & 6) in Nrusimharayapurapu Agraharam, Narava Village, Pendurthi Mandal Visakhapatnam District to the 5th respondent as arbitrary, illegal, high handed and unconstitutional.

The brief fact of the matter is that late Maharaja of Vizianagaram allegedly granted an extent of Acs.225.00 of land as Inam to one Ragamodi Bapanna and six others. One Venkata Suryanarayana Rao Pantulu (hereafter 'original purchaser') allegedly purchased the above lands under sale deeds dated 09.06.1885. He in turn sold the part of the land to petitioner's grandmother. The petitioner inherited the property, as a result of which, she claims to be in possession of the property for many years. It is also the case of the petitioner that the Special Deputy Tahsildar (Inams) initiated enquiry under the Andhra

Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'), and published a notification on 13.10.1958 to the effect that the land in question is inam land in Zamindari Village. An application before the Inams Deputy Tahasildar was also filed for grant of ryotwari patta. After conducting enquiry, it was allegedly held that legal heirs of original purchasers are entitled for grant of ryotwari patta under Section 4(1) of the Act. The petitioner alleges that without following due process of law, the second respondent, namely the Joint Collector, by proceedings dated 17.10.2005 recorded that the land in T.D.No.3072 corresponding to R.S.Nos.5 and 6 of Narava Village, is a Government poramboke land and also directed the third respondent to handover the entire extent of Acs.225.00 of land to the Visakhapatnam Special Economic Zone, the fifth respondent herein. Apprehending that the petitioner may be dispossessed, the present Writ Petition is filed.

This Court while admitting the Writ Petition on 14.03.2006, in W.P.M.P.No.6324 of 2006 ordered *status quo* as to possession obtaining as on that day. The fifth respondent filed W.V.M.P.No.661 of 2006 and respondents 1 to 4 filed W.V.M.P.No.1464 of 2006. The lone question is as to whether the petitioner can be dispossessed without due process of law or not? Hence the matter itself was heard finally with the consent of the learned Counsel for the petitioner, the learned Assistant Solicitor General for the fifth respondent and the learned Assistant Government Pleader for Revenue (General) for respondents 1 to 4.

In the counter affidavit filed by the third respondent it is admitted that the Inam Deputy Tahsildar, Visakhapatnam, published Form-2 notification under Section 3(3) of the Act declaring T.D.No.3072 (Survey No.448) admeasuring Acs.225.50 cents of Nrusimharayapurapu Agraharam, Narava Village, as inam lands not held by any Institution. It is also admitted that the petitioner's vendor and others filed applications for ryotwari patta and that the said applications were allowed. However, it is stated that no record is available in the office to show that the claimants Namburi Venkata Ramanamma and N.V.S.Ramakrishna Rao were issued pattas to the said proceedings of the then Mandal Revenue Officer, Pendurthi. Though the allegation of the petitioner that she is in possession of the property is denied, there is no specific averment regarding denying possession. The allegation that the direction by the second

respondent to the third respondent to handover possession to the fifth respondent was not preceded by any notice to the petitioner is not denied.

In the counter affidavit filed by the fifth respondent, *inter alia*, it is stated that by reason of the *status quo* orders, the development work in the land admeasuring Acs.159.95 cents handed over to the fifth respondent is held up. It is further alleged that the land handed over to the fifth respondent is free from encumbrances and disputes, and therefore, the developmental work, if stopped, would cause prejudice to public interest, besides delaying the project.

A perusal of the counter affidavits filed on behalf of respondents 1 to 4 as well as the fifth respondent would show that no notice was issued to the petitioner. Indeed, in the counter affidavit filed by the Mandal Revenue Officer a reference is also made to the enquiry by the Inams Deputy Tahasildar into the claiming ryotwari patta in respect of Acs.65.00 of land. *Prima facie*, it is, reasonable to draw an inference that the petitioner's possession cannot be denied. However, this inference can be dislodged by the respondents by producing appropriate material. Even the counter affidavit filed by the fifth respondent would show that land handed over to them on 25.10.2005 is Acs.159.95 cents.

Therefore, it would be appropriate for the respondents to issue notice to the petitioner if she is in possession, before she is dispossessed. It shall also be open to the respondents to initiate appropriate steps for acquiring the land, if the petitioner or her vendors were already granted ryotwari pattas.

In the result the Writ Petition is disposed of in the following manner. There shall be *status quo* as on today insofar as Acs.50.00 of land in T.D.No.3072, Survey No.448 (R.S.Nos.5 and 6) situated at Nrusimharayapurapu Agraharam, Narava Village. It shall be open to respondents 1 to 4 to issue notice to the petitioner, obtain explanation from her and take appropriate action in accordance with law. The order of *status quo*, however, shall not preclude the fifth respondent to proceed with the developmental activity in the land, which was handed over to them on 25.10.2005. There shall be no order as to costs.

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(V.V.S.RAO, J)

08.09.2006
vs